

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 SYSONGKHAM PHANTHAY;
4 VONGPHACHANH PHOUMY; NANTHA
5 PHANATHAY; PHAT SOUNNAKHONE,

6 Plaintiffs,

7 vs.

8 CIRCUS CIRCUS HOTEL & CASINO;
9 CIRCUS CIRCUS LAS VEGAS, PHIL
10 RUFFIN,

11 Defendants.

Case No.: 2:24-cv-01558-APG-BNW

**Order (1) Denying Motion for
Default, (2) Denying Motion for
Default Judgment, and (3) Granting
Motion to Dismiss**

[ECF Nos. 23, 28, 29]

12 The plaintiffs move for entry of default and default judgment against the defendants. ECF
13 Nos. 28, 29. Federal Rule of Civil Procedure 55(a) provides that the clerk must enter default
14 against a party who “has failed to plead or otherwise defend” a lawsuit. Here, the defendants
15 have appeared in the case and are defending the lawsuit, as evidenced by, among other things,
16 the motion to dismiss they filed. ECF No. 23. Therefore, entry of default is not proper. And thus
17 entry of default judgment is likewise improper. Fed. R. Civ. P. 55(b).

18 The defendants move to dismiss the plaintiffs’ complaint. ECF No. 23. The plaintiffs
19 have not opposed the motion. Under Local Rule 7-2(d), “[t]he failure of an opposing party to
20 file points and authorities in response to any motion . . . constitutes a consent to the granting of
21 the motion.” In addition, the motion is supported by good cause. I grant the motion to dismiss.

22 I THEREFORE ORDER that the plaintiffs’ motions for entry of clerk’s default and
23 default judgment (ECF Nos. 28, 29) are denied.

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1 I FURTHER ORDER that the defendants' motion to dismiss **(ECF No. 23)** is granted.

2 The clerk of court is directed to close this case.

3 DATED this 7th day of January, 2025.

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6 ANDREW P. GORDON
7 CHIEF UNITED STATES DISTRICT JUDGE
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